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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/083,422	05/22/98	CLARE	S 016325-00221

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PM82/0428

EXAMINER	
PEDDER, D	
ART UNIT	PAPER NUMBER

3612

DATE MAILED:

04/28/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/083,422**

Applicant(s)  
**Clare et al.**

Examiner  
**Dennis H. Pedder**

Group Art Unit  
**3612**



☒ Responsive to communication(s) filed on Apr 17, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5, 7, 10-12, 14, 24-28, and 30-48 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-5, 7, 10-12, 14, 24-28, and 30-48 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### **DETAILED ACTION**

1. This action replaces the office action of 4/19/2000 as the amendment of 4/17/2000 crossed that action.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Indefinite negative limitations "does not substantially alter...without" and "without increasing the width" do not particularly point out and distinctly claim. First, no vehicle which lacks the hidden storage system can be "identical". Secondly, this claim to a phantom vehicle, not part of the invention, is undefined and indefinite as a result. Thirdly, an appearance is a design choice, not a patentable distinction in a utility patent. Fourthly, there is no frame of reference for the appearance or width of the "identical vehicle". Applicant is encouraged to positively claim the invention, keeping a clear line of distinction to the several patents already issued.

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Further as to this last mentioned issue, applicant is encouraged to list the distinctions in this patent application over those already patented. Applicant is reminded of the provisions of Rule 56 as to that which is material to the examination of this application.

<sup>last</sup> Claim 35 is vague in "adapted to be mounted on wheels". What exactly adapts this system to mount on wheels? Since applicant has not claimed any structure or means for this function, the claim is indefinite. *slm*

Claims 5 and 45 are improper Markush groups as applicant has not defined any common characteristics. *mm*

Claim 31 defines indefinite alternative structure. *mm*

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-5, 7, 10, 11, 14, 25, 27-28, 31, 33, 35, 36, 38, 39, 41, 43-45, 46, 47, 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ward.

As stated above, the scope of this claim cannot be determined with any certainty. However, Ward has a storage box at 70 with an opening at the outer side thereof, and located between the side panels 58. The panels 58 are deemed to be substantially the same appearance as those of a pickup truck bed, but this is deemed an obvious design choice. The truck of Ward has a width. The width of the truck is deemed to be an obvious design choice to one of ordinary skill in the art as a wider truck has greater capacity. Ward has hinge at 80, latch mechanism at 136 and remote lock means 142, 146 in the cab for actuating the mechanism.

As to claim 3, the box of Ward extends along a section of the floor 34.

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As to claim 10, 41, struts to hold closures open are common knowledge in the art.

As to claims 11 and 45, insulation is common knowledge in the art.

As to claim 14, 46 drain/vent valves are common knowledge in the art.

As to claim 24, movable shelves are common knowledge in the art.

As to claim 27, Ward has a cab forward.

See wheel well 94 of Ward, claim 31.

As to claim 35, Ward has a conventional bed, that is open at top, tailgate at rear. Ward has a box at 70 and a box at 38/34/70, open to the side.

As to claim 36, the box height is less than the height of the bed.

As to claim 39, see shelf 90. Further shelves for box 70 are common knowledge in the art.

7. Claims 12, 30, 34, 37, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Douglass, Jr..

It would have been obvious to one of ordinary skill in the art to provide in Ward multiple hinged sections as taught by Douglass, Jr. in order to ease access.

As to claim 37, the box of Douglass, Jr. is low, considered of a height less than a conventional bed. Alternatively, height is not a patentable distinction.

8. Claims 32, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Ogilvie, US 3245713 (713).

It would have been obvious to one of ordinary skill in the art to provide in Ward a hinged section above the wheel well as taught by Ogilvie at 100.

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As to claim 40, the hinged portion 100 of Ogilvie (713) is hinged at an upper end thereof.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward in view of Powers.

It would have been obvious to one of ordinary skill in the art to provide in Ward a driver's side door in the enclosure as taught by Powers and a truncated storage system in order to accommodate same.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Payne, Stahl, Seto, and Levy detail storage compartments.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pedder whose telephone number is (703)308-2178. Fax amendments to expedite handling should be sent to (703) 305-7687.

DHP

April 27, 2000



Dennis H. Pedder  
Primary Examiner  
Art Unit 3612

4/27/00